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Attorneys for Plaintiff
Dr. Rewa Kumar

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

San Francisco Division

DR. REWA KUMAR, an individual,

Plaintiff,

v.

DOE 1, an unknown individual, and DOES 2
through 10,

Defendants.

Case Number: 3 : 14 - cv - 04573

**DECLARATION OF KRISTA L.
BAUGHMAN IN SUPPORT OF
PLAINTIFF'S *EX PARTE* MOTION
FOR TRO/OSC**

I, Krista L. Baughman, declare:

1. I am the attorney for Plaintiff Dr. Rewa Kumar ("Dr. Kumar"), in the above-captioned action. I am an attorney at law duly admitted to practice before all Courts of the State of California. I have personal knowledge of the matters set forth herein and if called as a witness could and would competently testify thereto. As to those matters stated on information and belief, I believe them to be true.

2. On behalf of Dr. Kumar, on October 6, 2014, I drafted and submitted applications to the U.S. Copyright Office in connection with formally registering her copyrights in certain video clips and a headshot photograph of Dr. Kumar for use in promoting and

Declaration of Krista L. Baughman In Support Of
Plaintiff's *Ex Parte* Motion for TRO/OSC

1 marketing her Vastu Shastra business (collectively, the “Materials”). Specifically, I submitted
 2 an application for each of the following items: a video clip entitled “Divine Vastu Amended TV
 3 Ad 6-18-2014”; a video clip entitled “Rewa Kumar Divine Vastu Specialist TV Ad”; and a
 4 photograph entitled “Rewa Kumar Headshot Photograph” (collectively, the “Applications”). On
 5 October 6, 2014, I received a written Confirmation of Receipt from the U.S. Copyright Office,
 6 acknowledging receipt of the Applications.

7 3. On October 6th and 7th, 2014, I uploaded a deposit in connection with each of the
 8 Applications, causing those applications to be complete as of October 7, 2014. I received from
 9 the U.S. Copyright Office an Acknowledgment of Uploaded Deposit in connection with each of
 10 the Applications on October 6th and 7th, 2014. True and correct copies of the applications are
 11 attached hereto as Exhibit A.

12 4. On September 8, 2014, I submitted to YouTube.com (“YouTube”) and
 13 DiggVideo.com (“DiggVideo”) copyright infringement notifications pursuant to the Digital
 14 Millennium Copyright Act (“DMCA”), informing these entities of the infringing nature of the
 15 Truth Walla Video and Admin Video that had, respectively, been anonymously posted on their
 16 forums. On September 18, 2014, I submitted a DMCA notice to Vimeo in connection with the
 17 Truth Leaks Video that had been anonymously posted on its forum. Following my DMCA
 18 notifications, YouTube and Vimeo removed the offending content in full, but DiggVideo did
 19 not – in fact, the Admin Video, which makes use of Dr. Kumar’s copyrighted Materials,
 20 remains posted and publicly available as of the date of this declaration.

21 5. On September 11, 2014, in response to my DMCA notification, YouTube
 22 informed me that it had received a counter notification from an individual identifying him or
 23 herself, under penalty of perjury, as “Indra Nooyi.” YouTube further informed me that it may
 24 reinstate the material to YouTube should it not receive notice from Dr. Kumar that she had filed
 25 an action seeking a court order to restrain the counter notifier’s allegedly infringing activity. A
 26 true and correct copy of this message from YouTube, which incorporates the substance of the
 counter notification, is attached hereto as Exhibit B.

6. On September 23, 2014, in response to my DMCA notification, Vimeo informed

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 Plaintiff’s *Ex Parte* Motion for TRO/OSC

1 me that it had received a counter notification from an individual identifying him or herself,
 2 under penalty of perjury, as “Indra Nooyi.” Vimeo further informed me that it would restore the
 3 material to Vimeo in ten business days unless Vimeo receives notice that an action seeking a
 4 court order to restrain the user from the alleged infringing activity has been filed. A true and
 5 correct copy of this message from Vimeo, and the attached counter notification, is attached
 6 hereto as Exhibit C.

7 7. Upon reviewing publicly available sources, I learned that Indra Nooyi is the
 8 CEO and Chairperson of Pepsi Co., Inc. (“Pepsi Co.”). Accordingly, I sent letters addressed to
 9 Ms. Nooyi and to Pepsi Co.’s General Counsel, alerting them of the counter notifications and
 10 asking whether Ms. Nooyi was the individual responsible for them. On October 2, 2014, I spoke
 11 with Joseph J. Ferretti, Pepsi Co.’s VP and Chief Counsel, Global Trademarks, and he
 confirmed that Ms. Nooyi had not submitted the counter notifications.

12 8. I informed YouTube and Vimeo of my understanding and belief that Ms. Nooyi
 13 had not submitted the counter notifications discussed above, and that anonymous parties were
 14 apparently committing fraudulent impersonation of Ms. Nooyi. In response, YouTube and
 15 Vimeo informed me that the Truth Walla Video will not be reinstated. However, nothing
 16 prevents these companies from reinstating the Offending Videos.

17 9. I could not serve notice of, or obtain a stipulation for, Dr. Kumar’s *Ex Parte*
 18 Motion for Temporary Restraining Order and Order to Show Cause Re: Preliminary Injunction
 19 on or from the Doe Defendants because, as discussed in detail in Dr. Kumar’s Motion for Leave
 20 to Take Limited Discovery Prior to a Rule 26(f) Conference, despite exhausting traditional
 21 avenues for identifying Defendants pre-service, neither myself nor my client can identify the
 22 Defendants with whom to confer until discovery takes place.

23 10. Given that Defendants have used pseudonyms to anonymously post the
 24 Offending Videos, and appear to be taking illegal measures to further obscure their identity(ies),
 25 there are very few reasonable steps available to us to discovery the identity of Defendants, and
 26 we have taken all such steps, without success.

Declaration of Krista L. Baughman In Support Of
 Plaintiff’s *Ex Parte* Motion for TRO/OSC

1 Date: October 14, 2014

2 /s/ Krista L. Baughman

3 Krista L. Baughman

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Plaintiff's *Ex Parte* Motion for TRO/OSC